



# P l a n n i n g i n S a n J o s é

A C o m m u n i t y G u i d e

# Planning in San José

A Community Guide

## FIRST EDITION (SECOND REVISION)

October 2005

Produced by the San José State Department of Urban and Regional Planning  
for the San José Department of Planning, Building, and Code Enforcement

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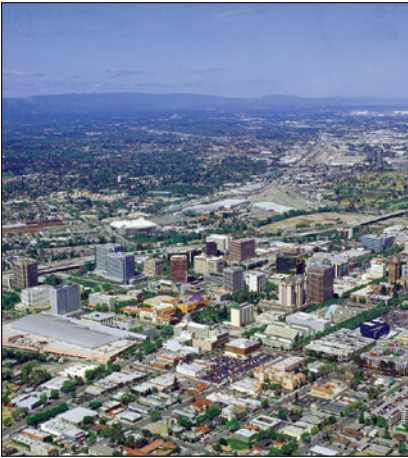
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# Planning Basics

## 1

Policies, Codes, Guidelines and Regulations

## Planning in San José



*Planning in San José* offers an introduction to land use planning and development for people unfamiliar with the process in the City, as well as for those already acquainted with the practice who want to learn more. It is a resource for residents, business owners and property owners, as well as for developers interested in building in San José. Emphasized throughout this *Guide* is the opportunity to make a significant difference in the community by becoming actively involved in the planning process. San José's planning process is designed to encourage input from the public through a variety of forums, such as at community meetings and public hearings—and in doing so, to enable individuals to make a genuine contribution to the future of San José.

While this *Guide* provides an overview of the planning process in San José, it is by no means comprehensive. Additional resources are available for individuals interested in learning more about a specific policy, initiative, or project. The City maintains an active website (<http://www.sanjoseca.gov/planning>) with information on a variety of planning topics, and a staff member at the Public Information Counter is available in the Department of Planning, Building, and Code Enforcement to answer questions from the public. An “Additional Resources” section is located at the end of this publication with contact information for some frequently-requested services.

*Planning in San José* is an extension of the City's commitment to involve the public as much as possible when undertaking land use planning and development activities. As articulated in the City's *Public Outreach Policy*, residents and other stakeholders are encouraged to utilize this publication, in conjunction with other resources, as a starting point for obtaining information concerning proposed projects and policies of interest. The City is committed to ensuring the ability of residents and other community stakeholders to follow development activity in their neighborhoods. Members of the San José community should not hesitate to take advantage of the opportunities available for public participation: by attending community meetings, by obtaining and reading relevant City records, by communicating in person and otherwise with elected officials and City staff, and by attending Planning Commission and City Council hearings.

The *Guide* is divided into three sections. Section 1, “Planning Basics,” describes the development history of San José and provides an overview of the planning process as well as the people, organizations, and laws involved. Section 2, “Land Use and Development,” explains the permitting and subdivision process, including the roles of the Department of Public Works and the Code Enforcement Division.



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Section 2 concludes with an explanation of how public facilities are constructed in San José. Section 3, “Additional Resources,” includes pointers for participating in the planning process. It also includes a glossary of commonly used planning terms and contact information for departments and agencies that can provide additional information on planning issues.

The *Guide* also includes helpful sidebar tips for the reader, in addition to the sidebar captions, that are indicated with “i”.

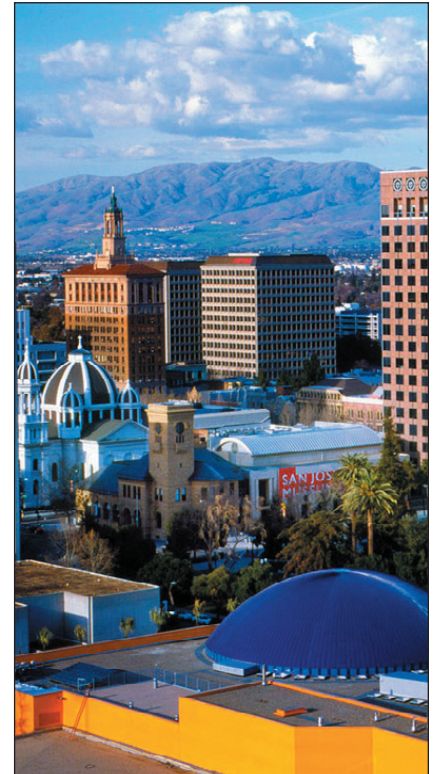
### 1-1. Background

#### History of Development Patterns

San José was established as an agricultural community in 1777, and it continued to exhibit a largely rural development pattern until the mid-20th century. By the 1940s, San José’s economic base had begun to move from agriculture to technology. This shift spurred a change in the traditional development pattern, in which the majority of residents lived in a concentrated area near the downtown while farm homes dotted the rural landscape. Beginning in the 1950s, San José experienced a tremendous increase in residential development, often focused along the periphery of the City. The sporadic development patterns made it difficult and costly to provide such basic services as utility lines, street maintenance, and schools. In response to this trend, San José began implementing growth management measures in the 1970s. Instead of permitting development in remote areas, San José encouraged building adjacent to or within already developed areas.

In 1996, San José adopted an Urban Growth Boundary (UGB) in an effort to further the growth management policies of the previous three decades. The Urban Growth Boundary delineates the parts of San José that are suitable for development. It contains the downtown, already-established residential, commercial, and office areas, and pockets of land that will be developed in the future. It excludes farmland and lands not safe for development. The Urban Growth Boundary serves two primary goals. It helps to concentrate development, ensuring the City can provide basic services to all residents, and it preserves open space.

The Smart Growth era in San José began in the 1970s; its principles are embodied in the City’s policies for future development. Smart



#### i What is Land Use Planning?

The term *land use planning* is commonly used among planning professionals. The phrase “land use” describes the type of buildings on the land, as well as the activities that take place on it. Some land use examples are housing, commercial activities, industrial uses, and parkland. Land use planning establishes where specific uses are and should be located.

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Growth is simply a set of principles that helps a place grow in a lively and sustainable manner. These principles aim to foster economic development, revitalize the downtown, protect and improve neighborhoods, provide a range of housing options, preserve open space, improve the transportation network, and direct growth to appropriate areas.

### The Planning Process

Cities, along with their neighborhoods and districts, utilize the planning process to create and implement a vision. The vision, and their resulting goals and policies, are documented in a plan. Plans can be legally binding, and they offer the public and the city a way to protect their interests. However, for a plan to be effective, it needs to have broad-based support and be flexible, yet also be straightforward.

There are several types of plans in San José. The *San José 2020 General Plan* is the most comprehensive in terms of the geographic area covered. It contains policies for the entire City. Specific Plans, sometimes called “master plans,” contain greater detail because they concern a much smaller area, usually a neighborhood. While general plans and specific plans are the most common plan types, other plans are developed for specialized purposes, such as the *San José Public Library Branch Facilities Plan* and the Strong Neighborhoods Initiative Improvement Plans.

### Decision Makers

The development of a plan involves a partnership between City staff, the public, and elected officials. However, decision makers actually adopt the plans; and in doing so, the plans take legal effect. Decision makers are also responsible for implementing, then enforcing plans through the adoption of codes and the issuance of development permits. The City Council is the highest decision-making authority within City government; it adopts plans, sets policy direction, and reviews all legislative items (such as the rezoning of property and General Plan amendments, as discussed in Sections 1-2 and 1-3) after City staff and the Planning Commission have made recommendations.

The Planning Commission, a seven-member body appointed by the City Council, meets twice a month to review proposed development projects, Zoning Ordinance changes, and new plans or plan amendments. The Planning Commission makes recommendations on most items to the City Council. However, it is authorized to approve

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certain types of permits without Council approval. The City Council is the final decision maker on appeals of Planning Commission decisions.

The Director of Planning, Building and Code Enforcement oversees the planning process in San José. The Director is a City staff member and received authority from the City Council to issue certain types of development permits, generally for smaller scale, routine projects.

City Council, Planning Commission, and Director's hearings are open to the public. An agenda is available at least 72 hours prior to the meeting that informs the public of the issues under consideration. The public is welcome to attend and comment on any of the issues under discussion. Agendas are posted on the City's website and on the information board at City Hall.

San José has other specialized commissions that function in a manner and serve a purpose similar to the Planning Commission. These include the Parks and Recreation Commission, the Historic Landmarks Commission, the Library Commission, and the Airport Commission. The actual scope of responsibilities varies for each commission, but they function primarily in an advisory capacity. The San José city website (<http://www.sanjoseca.gov>) has a complete list of commissions and their descriptions.

### Community Participation

There are many opportunities for community members to be involved in the planning process in San José. (Recently-submitted and pending projects are posted on the Planning website, and project files are available for review at the Public Information Counter.) For example, community meetings are one opportunity for residents to participate in planning efforts, such as General Plan amendments and updates. In addition, public hearings are held during the later stages of the project review process. Residents and other stakeholders are encouraged to attend and provide input at these hearings, held mostly before the Planning Commission and the City Council.

Residents can take a proactive approach to participation by checking the Department of Planning, Building, and Code Enforcement website for information on current projects and by calling the Public Information Counter with questions. Joining neighborhood groups is another way for residents to stay informed about planning issues that affect their communities.

### Relevant Departments and Government Agencies

The Department of Planning, Building, and Code Enforcement (PBCE) is comprised of five divisions. The Planning Services Division administers long-range planning projects, such as the *San José 2020 General Plan*. The Plan Implementation Division processes land development applications in conformance with the City's long-range planning goals. The Building Division reviews new construction projects to ensure they meet health and safety requirements. The Code Enforcement Division enforces various ordinances that promote the health, safety and appearance of existing buildings and neighborhoods. The Administrative Division manages the budgetary and technology systems for the entire Department.

Several other City departments perform planning-related functions and collaborate with PBCE during the planning process. These include the Redevelopment Agency, the Department of Housing, the Department of Parks, Recreation, and Neighborhood Services, the Department of Transportation, the Department of Public Works, the Police and Fire departments, the Office of Economic Development, and the Airport. A complete list of departments and divisions can be found on the City website (<http://www.sanjoseca.gov>). While the City of San José is responsible for most of the land use decisions within its boundaries, other government agencies have the authority to make decisions that affect the City and its residents. These consist of regional agencies such as the Valley Transportation Authority (VTA), state-level agencies such as Caltrans, and special districts. Special districts perform specialized government functions, often at the regional level, and include school districts, water districts and public utility districts.

### Planning-Related Legislation

The California state government has passed several acts of legislation influencing the planning process throughout California. Some of the most influential legislation includes the General Plan requirement, the Zoning Ordinance requirement, the Subdivision Map Act, and the California Environmental Quality Act.

Every city and county is required to have a general plan and a zoning ordinance. The zoning ordinance implements general plan policies because it specifies the land uses permitted on each parcel of property. Furthermore, it details the development requirements and restrictions associated with each zoning designation. These requirements and

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restrictions include such details as the maximum height of a building and how far it must be set back from the street.

The Subdivision Map Act, passed in 1907, regulates the subdivision of land. It ensures that only parcels large enough and safe for development are created, and that adequate public services will be provided for new developments.

The protection of environmental resources is essential to the planning process. The National Environmental Policy Act (NEPA) was passed in 1969, and the California Environmental Quality Act (CEQA) was passed the following year. NEPA pertains to projects proposed on federally owned or regulated lands, or funded through federal subsidies. CEQA is applied to all lands in California that are not federally owned.


### California Environmental Quality Act (CEQA)

CEQA requires developers to disclose the potential environmental impacts resulting from the construction of a project. This knowledge helps local officials to make informed decisions about whether to permit discretionary projects and, if so, with what conditions and or mitigation measures. A project can take one of three routes:

- It is categorically or statutorily exempt, or it is determined that there is no possibility that the project would have a significant effect on the environment. The California legislature has designated certain types of projects as exempt. This means they are not subject to the CEQA process.
- An initial study is conducted, and a negative declaration or mitigated negative declaration is adopted. This indicates that the study found no significant environmental impacts, or that the impacts can be reduced with mitigation measures. Mitigation measures require that the project be changed in some way to ensure that significant environmental impacts are reduced to a less-than-significant level.
- An initial study is prepared and determines that the project, without mitigation, may have a significant effect on the environment, and preparation of an environmental impact report (EIR) is required. This is the least common outcome and typically required for large-scale projects with potentially significant adverse impacts. An EIR is a comprehensive document, disclosing possible environmental impacts in great

*Under CEQA, discretionary projects require the exercise of judgment or deliberation when a project decision is made. They are distinct from ministerial projects, which involve decisions applying fixed, objective standards with little or no judgment required. Ministerial projects are statutorily exempt from CEQA review.*


*Most development projects are subject to CEQA review. To determine if your project is categorically or statutorily exempt or if it requires the preparation of an initial study, please contact the Plan Implementation Division.*

 An **EIR** is a detailed informational document that analyzes a project's potentially significant environmental effects and identifies mitigation measures and reasonable alternatives to avoid the significant effects.

A **negative declaration** is a written statement that explains why a project will not have a significant environmental effect.

A **mitigated negative declaration** is a written statement that explains why a project will not have a significant environmental effect upon completion of specified mitigating measures.



 The **San José 2020 General Plan** is a comprehensive, long-term plan to guide future development and growth in San José. It is the City's single most important planning document.

detail. It covers environmental topics such as air pollution, noise pollution, traffic impacts, and the destruction of natural habitats. The EIR also must include alternatives to the original project, as well as mitigation measures that will minimize the environmental effects of the project. Even if there are significant adverse environmental impacts created by a project, the City Council may adopt a statement of overriding considerations if economic or other benefits outweigh the negative impacts.

The CEQA process is designed to encourage input from the public. Before final approval of a planning application, every CEQA project goes through a comment period, during which members of the public can express their opinions about the project's potential environmental impacts. These comments become part of the public record, and decision makers consider them when reviewing a project. In addition, EIR scoping meetings will be held for projects with statewide, regional, or areawide significance.

When the City reviews a project for CEQA compliance, it is determining if the project will or will not have significant environmental effects in the following subject areas: aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology/soils, hazards and hazardous materials, hydrology/water quality, population/housing, public services, recreation, transportation/traffic, and utilities/service systems.

## 1-2. The General Plan

### Overview and Legal Basis

All cities and counties in California are required under state law to prepare and adopt a General Plan that contains a set of broad policy statements for future development. The General Plan must address specific requirements and cover certain subject areas contained in state law. The strength of the General Plan is such that the California Supreme Court held that the General Plan is the “constitution for all future developments,” to which any local decision affecting land use and development must conform. The *San José 2020 General Plan* is a comprehensive, long-term plan to guide future development and growth in San José through 2020. It is the City's single most important planning document.

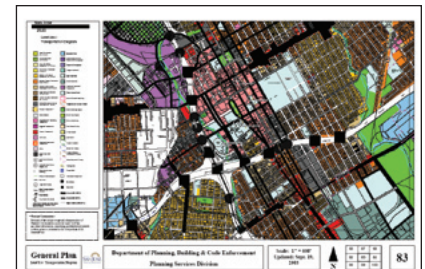
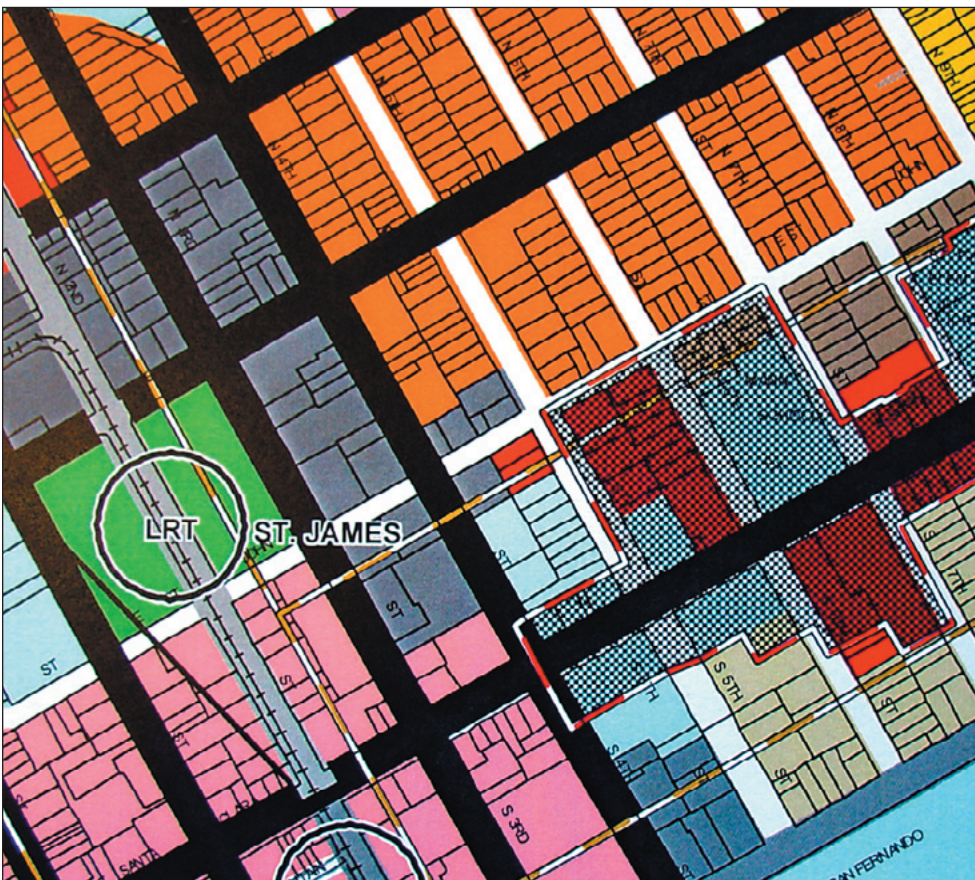
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### Purpose

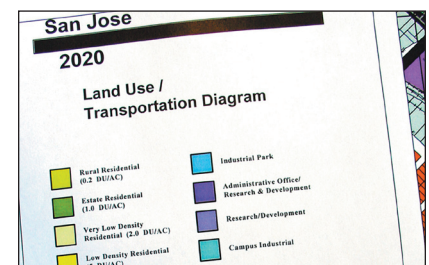
The *San José 2020 General Plan* is the City's official policy statement concerning its future character, land use patterns, and quality of development. The *General Plan* describes the amount, type, and phasing of development needed to achieve the City's social, economic, and environmental goals. It addresses a wide variety of development issues, including housing, traffic, natural resources, land uses, and public safety. The *General Plan* functions as a valuable decision-making tool by providing the policy framework for all land use and capital expenditure decisions made by the City. City staff, the Planning Commission, and the City Council use it on a daily basis to evaluate every development project that is submitted for approval.

The *San José 2020 General Plan* was adopted in 1994; it is a comprehensive update to previous General Plans and looks out to the year 2020. Although there is no requirement that the *General Plan* be updated at a specific time (except for the housing element), the City is required to periodically review and revise the *General Plan* as necessary to keep it current. Previous plans include *General Plan 1990*, adopted in 1975, and *Horizon 2000*, adopted in 1984.

**Urban services** refer to services such as police and fire protection, sewage treatment, water supply, and road maintenance.



The close-up view of the General Plan's Land Use/Transportation Diagram shows the land use designations of individual parcels. Each designation has a unique color that is described in the legend (above and below).



The **Land Use/Transportation Diagram** is available for viewing on the San José city website. The official copy of the Diagram is available for viewing at the Department of Planning, Building, and Code Enforcement.

The *General Plan* is intended to be used by all community members and to serve as a valuable community resource. It gives City staff, developers, property owners, the public, and decision makers an idea of what is important to the people of San José and how and where development should or should not occur.

The Land Use/Transportation Diagram, a key component of the *General Plan*, provides a geographic reference and spatial context to the *General Plan's* major strategies, goals, and policies. It shows designated land uses, such as general commercial and low-density residential, and illustrates the strong link between land uses and the transportation network.

## Components

The three major components of the *General Plan* are the major strategies that establish the basic structure for planning, the Land Use/Transportation Diagram, and the goals and policies. The seven strategies, which establish the basic structure for planning in San José, are listed below:

- **Economic Development:** Maximizes the economic potential of the City's land resources and employment opportunities for San José's residents.
- **Growth Management:** Addresses the need to balance the urban-services demand of new development with the need to balance the City's budget.
- **Downtown Revitalization:** Emphasizes a prominent and attractive downtown as a catalyst that brings new investment, residents, businesses, and visitors to the heart of the City.
- **Urban Conservation and Preservation:** Underscores the importance of protecting and enhancing San José's neighborhoods and historic resources to promote community identity and pride.
- **Greenline:** Seeks to preserve land that protects water, habitat, and agricultural resources and/or offers recreational opportunities, as well as to preserve the scenic backdrop of the hillsides surrounding San José.
- **Housing:** Strives to provide a variety of housing opportunities to meet the needs of all segments of the community.
- **Sustainable City:** Promotes the identification, management and conservation of resources for present and future generations.



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### Amendment Process

Periodic amendments to the *General Plan* are necessary to keep it relevant and reflective of current conditions and needs. Amendments must follow specific procedures set forth in state law, and they may be approved by the City Council up to four times per year.

The Planning Services Division processes applications for *General Plan* amendments, which generally require several months each. Amendments must undergo environmental review as required by the California Environmental Quality Act (CEQA). If preparation of an environmental impact report (EIR) is required, the review process potentially could take several more months. Applications for amendments are scheduled for the next available *General Plan* public hearing cycle for which the amendment would qualify, based on completion of environmental review and all other required aspects of City review.

The majority of *General Plan* amendments are initiated to allow a change in the land use designation that supports a proposed development project. Proposed land use designation changes (e.g. from commercial to residential or *vice versa*) are evaluated for their compatibility with surrounding land uses and their consistency with the major strategies, goals, and policies of the *General Plan*.

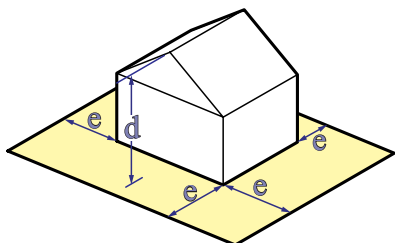
Community meetings for the proposed amendments typically are held near the project site. Taking community input into consideration, City staff forwards a recommendation to the Planning Commission, which holds a public hearing and listens to public comments before making its own recommendation on the proposed amendment to the City Council. The Council also conducts a public hearing and considers public testimony before making its final decision concerning the amendment.

## 1-3. Tools for Implementing the General Plan

### Zoning

#### Overview and Legal Basis

While the *General Plan* sets the broad parameters for growth and establishes future land use patterns, zoning is the way in which the



*The building envelope specifies height limits (d), and setbacks (e), as well as the percentage of a site that may be covered by buildings (a/b).*

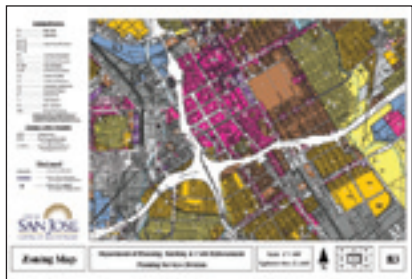
City establishes the use and development standards of property. A Zoning Ordinance is the local law that defines the allowable uses and development standards for each property within the community. Zoning provides the legal and enforceable land use regulations to carry out the policies set forth in the City's *General Plan*. State law permits the City to regulate the height, location, or size of buildings and the uses to which buildings and land may be put.

## Purpose

Zoning ensures that land is used in a manner that best serves the health, safety, and general welfare of the entire community. Zoning separates land uses that are incompatible with each other. It does this by limiting industrial, commercial, and residential development to specified areas or zones; these zoning districts (e.g. single-family residential, multi-family residential, commercial, industrial) indicate the type of development that may be built on all parcels within each district. Zoning also regulates the intensity of such uses, the setbacks of structures from property lines, the height, and the bulk of buildings permitted on a site.

## Amendment Process

In order to permit a project that conforms to the *General Plan* land use designation, but not to the zoning district, the City must change the zoning classification on the parcel of land in question. There are two types of amendments to Zoning Ordinances: (1) reclassification of the zoning of a specific property, commonly called “rezoning”; and (2) changes in the permitted uses or regulations on property within particular zones or citywide, commonly called “Zoning Ordinance



The **Zoning Diagram** is available for viewing on the City website (<http://www.sanjoseca.gov>). The official copy of the diagram can be viewed by the public at the Public Information Counter.





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changes.” Each proposed rezoning is reviewed for consistency with the property’s *General Plan* designation. All zone changes must be approved by the City Council after a public hearing and are subject to initiative and referendum.

### Specific Plans

#### Overview and Legal Basis

Because the *General Plan* is a broad policy document that applies to the entire City, more detailed plans for small geographic areas often are needed to help further the goals of the *General Plan*. These plans are known as “Specific Plans.” While a range of issues may be addressed in Specific Plans, they must comply with explicit requirements imposed by state law and be consistent with the major strategies, goals, and policies of the *General Plan*. Specific Plans also must be developed in compliance with an adopted City Council policy and the ordinance on Specific Plans.

#### Purpose

The purpose of a Specific Plan is to provide detailed direction for development in a defined geographic area, from the type, location, and intensity of uses to the design and capacity of infrastructure. The plan addresses future public facilities needed to support development, standards, and criteria for future development, as well as a program of implementation measures. Like the *General Plan*, all development projects, Public Works projects, and zoning designations must be consistent with an adopted Specific Plan.

Community involvement is very important in the development of the plan. The preparation, adoption, and amendment process for Specific Plans is similar to that for the *General Plan*, with community outreach and public hearings to allow the public to provide comments to the Planning Commission and the City Council.

#### Current Adopted Specific Plans

San José currently has eight adopted Specific Plans. These plans all define housing development opportunities in strategic locations throughout San José:

- Evergreen Specific Plan
- Communications Hill Specific Plan
- Midtown Specific Plan
- Jackson-Taylor Residential Strategy
- Tamien Station Area Specific Plan



The *Specific Plan* brochures are available for viewing on the San José website (<http://www.sanjoseca.gov/planning>). Paper copies of the brochures are also available at the Department of Planning, Building, and Code Enforcement.

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- Rincon South Specific Plan
- Alviso Master Plan
- Martha Gardens Specific Plan

### Amendment Process

Amendments to Specific Plans are necessary to keep the plans current and to respond to changing conditions or issues that were not anticipated at the time of preparation. Specific Plans may be amended through a process similar to the *General Plan* amendment process. Because changes to Specific Plans typically require corresponding changes to the *General Plan* text and the Land Use/Transportation Diagram, they are processed four times a year, along with other *General Plan* amendments. Most amendments consist of changes in conjunction with proposed development projects.

Before amendments are adopted, community meetings are held to gather public input. The Planning Commission reviews the applications at a public hearing and makes a recommendation to the City Council. A final decision on the amendment is made by the City Council at a public hearing.

### Other Tools

In addition to the Zoning Ordinance, the City uses other tools to implement the *General Plan*; these tools are discussed below:

### Council Policies

The City Council is authorized by the San José City Charter and the California Constitution to formulate citywide policies. Policies provide further guidance for land use and development, but allow for more flexibility in their implementation than ordinances. The City Council can adopt policies concerning land use issues after a public hearing.

### Historic Preservation Ordinance

Historic preservation is a tool to conserve structures, sites, and objects from San José's past. The *San José 2020 General Plan* contains policies that encourage historic preservation. The City's Historic Preservation Ordinance, adopted in 1975, helps to create a unique environment and a sense of place in San José. The ordinance establishes a Historic Landmarks Commission and details specific procedures for the review of historic sites.

The Historic Landmarks Commission is a seven-member advisory body appointed by the City Council. This Commission maintains



The restored historic Jose Theater with its new signage

#### **i Financial incentives are available to an owner of a City Landmark.**

The owner of a City Landmark can receive a reduced property tax rate for agreeing to maintain its landmark status. Property owners of individual City Landmarks may apply for a Historic Property Contract with the Historic Preservation Officer.

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the Historic Resources Inventory, adding and deleting properties as appropriate. The Historic Resources Inventory lists structures, sites, and districts that have varying degrees of historic significance. The Commission also makes a number of recommendations: to the City Council on proposed City Landmarks, and to the Planning Director on Historic Preservation Permits and other proposals that may affect historic structures, sites, or objects.

### Subdivision Ordinance

California's Subdivision Map Act governs any subdivision of land for the purpose of sale, lease or finance. All cities must adopt an ordinance regulating and controlling subdivisions. All subdivisions must conform to the Zoning Ordinance and the *General Plan*. No new lot line may create a violation of setbacks, minimum lot size, frontage requirements, or other Zoning Ordinance or *General Plan* standard.

### Sign Ordinance

San José's Sign Ordinance, Title 23 of the Municipal Code, promotes attractive signage, facilitates traffic safety, promotes commerce, and addresses aesthetic concerns about visual clutter and blight in the environment. The regulation of signs in the City is intended to promote an aesthetically pleasing environment with these concerns in mind. Signs must be consistent with land use patterns and building design, be well maintained and cannot create safety hazards.



*The Alameda retail corridor*

Amendments to the Sign Ordinance must be approved by the City Council following a public hearing.

### Park Ordinances

The Park Impact Ordinance and the Parkland Dedication Ordinance are laws enacted by the City Council to help provide neighborhood park and recreation facilities to meet the needs generated by residents of new housing units. Copies of the current ordinances and park fee schedule are available at the office of the Department of Parks, Recreation, and Neighborhood Services' Community Development Division (telephone: 408-793-5505).

The ordinances require all residential developers and residential subdivisions to dedicate land or pay in-lieu fees for a net increase in residential units. The standard for land dedication or payment of in-lieu fees is intended to provide three acres of parkland (or an equivalent value of improvements to existing parks) per 1,000 new residents.

San José's land use planning and development approval process